APPENDIX

Revenue Act of 1932, c. 209, 47 Stat. 169:

SEC. 501. IMPOSITION OF TAX.

(a) For the calendar year 1932 and each calendar year thereafter a tax, computed as provided in section 502, shall be imposed upon the transfer during such calendar year by any individual, resident or nonresident, of property by gift.

(b) The tax shall apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but, in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States. The tax shall not apply to a transfer made on or before the date of the enactment of this Act.

(c) The tax shall not apply to a transfer of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having a substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a transfer by the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a transfer by the donor of such income by gift.

SEC. 506. GIFTS MADE IN PROPERTY.

If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

Revenue Act of 1942, c. 619, 56 Stat. 798:

SEC. 451. GIFTS TO WHICH AMENDMENTS APPLICABLE.

Except as otherwise expressly provided, the amendments made by this Part shall be applicable only with respect to gifts made in the calendar year 1943, and succeeding calendar years.

SEC. 452. POWERS OF APPOINTMENT.

(a) *General Rule.*—Section 1000 (relating to imposition of gift tax) is amended by inserting at the end thereof the following new subsection:

"(e) *Powers of Appointment.*—An exercise or release of a power of appointment shall be deemed a transfer of property by the individual possessing such power. For the purposes of this subsection the term 'power of appointment' means any power to appoint exercisable by an individual either alone or in conjunction with any person, except—

"(1) a power to appoint within a class which does not include any others than the spouse of such individual, spouse of the creator of the power, descendants of such individual or his spouse, descendants (other than such individual) of the creator of the power or his spouse, spouses of such descendants, donees described in section 1004 (a) (2), and donees described in section 1004 (b). As used in this paragraph, the term 'descendant' includes adopted and illegitimate descendants, and the term 'spouse' includes former spouse; and

"(2) a power to appoint within a restricted class if such individual did not receive any beneficial interest, vested or contingent, in the property from the creator of the power or thereafter acquire any such interest, and if the power is not exercisable to any extent for the benefit of such individual, his estate, his creditors, or the creditors of his estate.

If a power to appoint is exercised by creating another power to appoint, such first power shall not be considered excepted under paragraph (1) or (2) from the definition of power of appointment to the extent of the value of the property subject to such second power to appoint. For the purposes of the preceding sentence the value of the property subject to such second power to appoint shall be its value unreduced by any precedent or subsequent interest not subject to such power to appoint."

(b) *Powers With Respect to Which Amendments Not Applicable.*—

(1) The amendments made by this section shall not apply with respect to a power to appoint, created on or before the date of enactment of this Act, which is other than a power exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, unless such power is exercised after the date of enactment of this Act.

(2) The amendments made by this section shall not become applicable with respect to a power to appoint created on or before the date of enactment of this Act, which is exercisable in favor of the donee of the power, his estate, his creditors, or the creditors of his estate, if at such date the donee of such power is under a

legal disability to release such power, until six months after the termination of such legal disability. For the purposes of the preceding sentence, an individual in the military or naval forces of the United States shall, until the termination of the present war, be considered under a legal disability to release a power to appoint.

(c) *Release on or Before January 1, 1943.*—

(1) A release of a power to appoint before January 1, 1943, shall not be deemed a transfer of property by the individual possessing such power.

(2) This subsection shall apply to all calendar years prior to 1943.

(26 U. S. C. Supp. IV, Sec. 1000.)

Revenue Act of 1943, c. 63, 58 Stat. 21:

SEC. 505. EXTENSION OF TIME IN CONNECTION WITH RELEASE OF POWERS OF APPOINTMENT.

Section 403 (d) (3) of the Revenue Act of 1942 is amended by striking out "March 1, 1944" wherever it appears and inserting in lieu thereof "January 1, 1945"; and section 452 (c) of the Revenue Act of 1942 is amended to read as follows:

"(c) *Release Before January 1, 1945.*—

"(1) A release of power to appoint before January 1, 1945, shall not be deemed a transfer of property by the individual possessing such power.

"(2) This subsection shall apply to all calendar years prior to 1945.

Treasury Regulations 79 (1936 ed.):

ART. 19 [as amended by T. D. 4901, 1939–1 Cum. Bull. 341–342]. *Valuation of property* (1) *General.*—The statute provides

that if the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift. The value of the property is the price at which such property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell. The value of a particular kind of property is not to be determined by a forced sale price. Such value is to be determined by ascertaining as a basis the fair market value at the time of the gift of each unit of the property. For example, in the case of shares of stock or bonds, such unit of property is a share or a bond. All relevant facts and elements of value as of the time of the gift should be considered.

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(3) *Stocks and bonds.*—The value at the date of the gift in the case of stocks and bonds, within the meaning of the statute, is the fair market value per share or bond on such date.

In the case of stocks and bonds listed on a stock exchange the mean between the highest and lowest quoted selling prices on the date of the gift shall be considered as the fair market value per share or bond. If there were no sales on the date of the gift, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the

date of the gift. For example, assume that sales of stock nearest the date of the gift (June 15) occurred two days before (June 13) and three days after (June 18) and that on such days the mean sale prices per share were $10 and $15, respectively. The price of $12 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If, however, on June 13 and June 18 the mean sale prices per share were $15 and 10, respectively, the price of $13 shall be taken as representing the fair market value of a share of such stock as of the date of the gift. If the security was listed on more than one exchange, the records of the exchange where the security is principally dealt in should be employed. In valuing listed stocks and bonds the donor should observe care to consult accurate records to obtain values as of the date of the gift.

In the case of stocks and bonds which are not listed upon an exchange, but are dealt in through brokers, or have a market, the fair market value shall be determined by taking the mean between the highest and lowest selling prices as of the date of the gift; or, if there were no sales on that date, such value shall be determined by taking the mean between the highest and lowest sales on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift. If quotations are obtained

from brokers, or evidence as to the sale of securities is obtained from the officers of the issuing companies, the donor should preserve in his files the letters furnishing such quotations or evidence of sale for inspection when the return is verified by an investigating officer.

If actual sales are not available during a reasonable period beginning before and ending after the date of the gift, the fair market value may be determined by taking the mean between the bona fide bid and asked prices on the nearest date before and the nearest date after the date of the gift (both such nearest dates being within a reasonable period), and by prorating the difference between such mean prices to the date of the gift, and by adding or subtracting, as the case may be, such prorated portion of the difference to or from the mean price obtaining on such nearest date before the date of the gift.

If actual sale prices or quoted bona fide bid and asked prices are available on a date within a reasonable period prior to the date of the gift, and if no actual sale prices or bona fide bid and asked prices are available on a date within a reasonable period after the date of the gift, or vice versa, then the mean between such highest and lowest available sale prices or bid and asked prices may be taken as the value.

If actual sales or bona fide bid and asked prices are not available, then, in the case of corporate or other bonds, the value is to be arrived at by giving consideration to the soundness of the security, the interest yield, the date of maturity, and other relevant factors, and, in the case of shares of stock, upon the basis of the company's net worth,

earning power, dividend-paying capacity, and all other relevant factors having a bearing upon the value of the stock. Complete financial and other data upon which the donor bases his valuation should be submitted with the return.

In cases in which it is established that the value per bond or share of any security determined on the basis of selling or bid and asked prices as herein provided does not reflect the fair market value thereof, then some reasonable modification of such basis or other relevant facts and elements of value shall be considered in determining fair market value.

U. S. GOVERNMENT PRINTING OFFICE: 1948